

December 2, 1949

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ARIZONA ATTORNEY GENERAL

F. Lewis Ingraham  
County Attorney  
Yuma County  
Yuma, Arizona

Dear Mr. Ingraham:

At your request we have examined Dairy Products v. City of Yuma, 68 Ariz. 393, to determine whether, in our opinion, this case indicates a board of supervisors does not have the necessary authority to enact criminal ordinances.

The Arizona Supreme Court held in Santa Cruz County v. Barnes, 9 Ariz. 42, that the board of supervisors has only such powers as are expressly granted it or those necessarily implied from the statute, and this principle has been adhered to in all later cases dealing with this subject.

While the statements in the Dairy Products case are, as you state, dicta, this decision reiterates the court's position as announced in the earlier cases, and states:

"\* \* \* Certainly there is nothing in the granting of power in any of these sections that would warrant the board of supervisors in passing a criminal statute and fixing a penalty for its violation,"

Again on page 400, this is found:

"\* \* \* No legislative intent can be gathered from the language used to delegate to the boards of supervisors of the counties of this state the power to enact ordinances such as the one in question here, or to enact criminal statutes or ordinances and to enforce penalties for the violation thereof."

See also Clayton v. State, 38 Ariz. 135;  
Keller v. State, 46 Ariz. 106.

It is therefore our opinion that a board of supervisors does not have the power to enact an ordinance fixing a speed limit on any public highway and providing a penalty for the violation thereof.

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It is possible that the Highway Patrol under the authority given it by Section 66-702 could fix a speed limit on the highway in question which would accomplish the desired result.

Trusting you will be able to work out a satisfactory solution of this matter, we are,

Very truly yours,

FRED O. WILSON  
Attorney General

PERRY M. LING  
Chief Assistant  
Attorney General

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